IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8600 of 1999
For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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Versus

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Appearance:
Mr.S.G. Uppal for MR GT PARIKH for Petitioner
Mr.A.R. Mehta for Mr.R.H. Mehta for Respondent No. 1, 3
MR RAJNI H MEHTA for Respondent No. 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 06/03/2000

ORAL JUDGEMENT :

This Court has passed a detailed order on 2.11.1999 as under :

"The petitioner raises two fold contentions, firstly the grievance about the date of promotions which were granted to him in 1983, 1989 and lastly upgradation retrospectively with effect from 1.1.1986 in 1989 by fixing salary in the higher pay scale at Rs.1030/-. The petitioner has retired in 1991. The grievance as to the alleged delayed promotion cannot be

entertained at this stage. The other contention of the petitioner is about not releasing the full payment due to him as per pay revision that took place in 1991 before his retirement with effect from 1.1.1987 after he has been fixed in higher pay scale at Rs.1030/-. From the document submitted by the petitioner there appears to be a case for calling explanation from the respondents to explain how the arrears annexed with the order of fixation in the revised pay scale has been computed as the same prima facie to be incongruous.

Rule returnable on 29.1.1999. Notice as to interim relief."

2. One Shri S.K. Mahapatra, Administrative Officer (P&A) has filed affidavit in reply on behalf of respondent no.3. Shri Mehta states that though he has filed appearance only for respondent no.3, he undertakes to file appearance for respondents nos. 1 and 2 also. He further states that affidavit in reply filed on behalf of respondent no.3 may also be treated as an affidavit for respondents nos.1 and 2 also.

3. So far as the contention of the petitioner is concerned this Court has already stated in the order dated 2.11.1999 that grievance as to the alleged delayed promotion cannot be entertained at this stage. The other contention of the petitioner is about not releasing the full payment due to him as per pay revision that took place in 1991 before his retirement with effect from 1.1.1987. From the aforesaid order it is clear that the statement showing the break up of the amount payable to the petitioner was not fully explaining the total amount payable to the petitioner.

4. Along with the affidavit in reply a statement giving further break up of the total amount payable to the petitioner is annexed. Shri Mehta has explained the entries of the said statement. Shri Mehta has also stated at the bar that the amount which was payable to the petitioner is already paid. Shri Uppal, learned counsel for the petitioner has still some grievance as to the amount payable to the petitioner. It is a disputed question of fact and if at all the petitioner is aggrieved of non payment of some amount, which is according to him payable to the petitioner he should take the proceedings before an appropriate forum. This Court under Article 226 of the Constitution cannot go into the disputed questions of facts so as to determine as to what

would be the exact amount payable to the petitioner and what exact amount is paid by the respondent to the petitioner. On a perusal of the statements at pages 16 and 26, this Court, prima facie, feels that the amount payable to the petitioner is sufficiently explained. However, disposal of this petition should not come in the way of the petitioner to challenge the non payment of some amount, which according to him is not paid by the respondent authorities.

5. In view of the aforesaid discussion the petition is dismissed. Rule is discharged. No order as to costs.

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